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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-886

Polyethylene Retail Carrier Bags from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that imports of unfinished polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC) are circumventing the antidumping duty order on PRCBs from the PRC.¹

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Minoo Hatten, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0410, and (202)482-1690, respectively.

Background

We published the affirmative preliminary determination on December 17, 2013, finding that imports of unfinished PRCBs from the PRC are circumventing the *Order*, pursuant to section 781(a) of the Act and 19 CFR 351.225(g).² In the *Preliminary Determination*, we relied on the facts available with respect to certain aspects of our determination in accordance with section 776

¹ See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 48201 (August 9, 2004) (*Order*).

² See *Polyethylene Retail Carrier Bags From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 78 FR 76280 (December 17, 2013) (*Preliminary Determination*).

of the Act because, apart from the petitioners, no parties came forward or submitted argument or information.³ In addition, we stated in the *Preliminary Determination* that “{i}n the interest of affording every possible opportunity to interested parties to participate, the Department continues to invite all interested parties to identify themselves and to provide information and argument that may inform the Department's determination”⁴ as well as comment on the *Preliminary Determination*. However, no interested party such as a foreign exporter or producer or U.S. importer responded to these invitations to participate in this circumvention inquiry.

We also invited interested parties to comment on the *Preliminary Determination*. We received no comments.

Scope of the Order

The merchandise subject to the *Order* is PRCBs which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed

³ *Id.*, 78 FR at 76281.

⁴ *Id.*

in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners. Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading also covers products that are outside the scope of the order. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Scope of the Circumvention Inquiry

This circumvention inquiry covers merchandise from the PRC that appears to be an unfinished PRCB which is sealed on all four sides, cut to length, and which appears ready to undergo the final step in the production process, *i.e.*, to use a die press to stamp out the opening and create the handles of a PRCB. The unfinished PRCBs subject to this inquiry may or may not have printing and may be of different dimensions as long as they meet the description of the scope of the order.

Final Determination

In the *Preliminary Determination*, we determined that imports of unfinished PRCBs from the PRC are circumventing the *Order*. Specifically, we determined that imports of unfinished PRCBs from the PRC are being completed and sold in the United States pursuant to the statutory and regulatory criteria laid out in section 781(a) of the Act and 19 CFR 351.225(g). We based our *Preliminary Determination* upon evidence which the petitioners placed on the record of the proceeding, and, in addition, we relied on the facts available with respect to certain aspects of our determination in accordance with section 776 of the Act because, apart from the petitioners, no parties came forward or submitted argument or information. For a complete discussion of the

evidence which led to our preliminary determination with respect to each of these factors, see the *Preliminary Determination Memorandum*.⁵

Because no party provided any additional information or comment contradicting our *Preliminary Determination*, our final determination remains unchanged from the *Preliminary Determination*. Accordingly, we determine, pursuant to section 781(a) of the Act and 19 CFR 351.225(g), that imports of unfinished PRCBs from the PRC are circumventing the *Order*.

Continuation of Suspension of Liquidation

As a result of this determination, and consistent with 19 CFR 351.225(l)(3), we are continuing to direct Customs and Border Protection to suspend liquidation and to require a cash deposit of estimated duties at the applicable rate on unliquidated entries of merchandise subject to this inquiry that are entered, or withdrawn from warehouse, for consumption on or after May 14, 2013, the date of publication of the initiation of this inquiry.⁶

Notification to Interested Parties

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

⁵ See Memorandum from Gary Taverman to Paul Piquado, "Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Polyethylene Retail Carrier Bags from the People's Republic of China" (December 10, 2013) (*Preliminary Determination Memorandum*).

⁶ See *Initiation Notice*.

This determination of circumvention is in accordance with section 781(a) of the Act and 19 CFR 351.225(g).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

_March 19, 2014_____

Date

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